



9-23-03

\$ RCE  
3700

Practitioner's Docket No.: 100\_007 CIP-RCE

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Dwayne Lacey

Ser. No.: 09/935,297

Group Art Unit: 3764

Filed: August 22, 2001

Examiner: DeMille, D.

Confirmation No.: 9672

For: HEAD MASSAGING DEVICE

RECEIVED

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TECHNOLOGY CENTER R3700

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Janet M. Stevens

REQUEST FOR CONTINUED EXAMINATION (RCE)  
(37 C.F.R. 1.114)

1. Applicant hereby requests continued examination, in accordance with 37 C.F.R. § 1.114, for the above identified application.

**WARNING:** 35 U.S.C. 132(b) and § 1.114 provide for the continued examination of an application and *not* examination of a continuing application). Accordingly, the Office will not permit an applicant to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined. Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

**WARNING:** A continued examination request *cannot* be made if at least one office action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 161 has not been mailed. The provisions of 37 C.F.R. 1.114 also do not apply (1) to a provisional application, an application for a utility or plant patent filed under 35 U.S.C. 111(a); (2) an international application filed under 35 U.S.C. 363 before June 8, 1995; (3) a patent under reexamination; or (4) an application for a design patent. 37 C.F.R. § 1.114(d).

**NOTE:** There is no limit to the number of times the fee for continued examination may be submitted. Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

**NOTE:** Unlike a continuation application, a continued examination request *can* utilize the mailing procedure of 37 C.F.R. 1.8. See 37 C.F.R. § 1.8(a)(2)(i)(A).

## TIME REQUEST IS BEING MADE

2. This request is being submitted (check appropriate item(s) below):

i. ☒ Prior to abandonment of the application

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01 FC:2801  
02 FC:2202  
03 FC:2201

375.00 OP  
108.00 OP  
126.00 OP

ii. ☐ Payment of the issue fee

☐ Prior to payment of issue fee

☐ Issue fee has been paid but a petition under § 1.313 was filed (copy attached).

iii. ☐ Prior to a decision on appeal to the Board of Patent Appeals & Interferences

☐ A notice is being separately sent to the Board of Patent Appeals & Interferences

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04 FC:2251

52.00 OP

that this Request for Continued Examination is being filed.

- iv. ☐ Appeal to the U.S. Court of Appeals of the Federal Circuit under 35 U.S.C. 145 or  
☐ Commencement of a civil action under 35 U.S.C. 146  
☐ Prior to the filing of such appeal or commencement of civil action  
☐ Such appeal or commencement of civil action has been terminated

**PREVIOUSLY SUBMITTED DOCUMENTS**

3. Please Enter and Consider the following Previously Submitted Documents:

- ☐ Amendment filed \_\_\_\_\_.  
☐ Brief on Appeal filed \_\_\_\_\_.  
☐ Other:

**ENCLOSURES**

4. Enclosed herewith is/are:

- ☒ An Information Disclosure Statement and Form PTO-1449  
☐ An Identification of Copending Application(s) and Form PTO-1449  
☒ An Amendment  
☒ A Terminal Disclaimer  
☐ New arguments  
☐ New evidence in support of patentability  
☐ Other:

**FEE FOR REQUEST (37 C.F.R. § 1.17(e)).**

5. This application is on behalf of:

- ☒ Small entity (and status is still as small entity)      \$375.00  
☐ Other than a small entity      \$750.00

Continued Prosecution Request Fee      \$375.00

### FEE FOR CLAIMS

6. The fee for claims (37 C.F.R. § 1.16(b)-(d)) has been calculated as shown below:

(1)	(2) Claims Remaining After Amendment	(3)	(4) Highest Number Previously Paid	(5) No. of Extra Claims Present	(6) Rate	(7) Additional Fee
TOTAL CLAIMS	32	MINUS	20	12	9.00	108.00
INDEP. CLAIMS	6	MINUS	3	3	42.00	126.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						234.00

(c) ☐ No additional fee is required.

OR

(d) ☒ Total additional fee required is \$234.00.

### EXTENSION OF TIME

7. The proceedings herein are for a patent application, and the provisions of 37 C.F.R. § 1.136(a) apply.

(a) ☒ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a)(1)-(4), for the total number of months checked below:

Extension (Months)		Fee for other than small entity	Fee for small entity
<input checked="" type="checkbox"/>	One Month	\$ 110.00	\$ 55.00
<input type="checkbox"/>	Two Months	\$ 410.00	\$ 205.00
<input type="checkbox"/>	Three Months	\$ 930.00	\$ 465.00
<input type="checkbox"/>	Four Months	\$1,450.00	\$ 725.00

Extension Fee                      \$ 55.00

If an additional extension of time is required, please consider this a petition therefor.

☐ An extension for \_\_\_\_\_ months has already been secured, and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ 55.00

**OR**

(b) ☐ Applicant believes that no extension of time is required. However, this is a conditional petition and authorization to pay the necessary fees to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

**TOTAL FEE(S) DUE**

8. The total fee(s) due is/are:

Continued Prosecution Fee (§ 1.17(e))	\$375.00
Fee(s) for additional claims (if any) (§ 1.16(b)-(d))	\$234.00
Extension of time fee (if any) (§ 1.17(a)(1)-(4))	\$ 55.00
Terminal Disclaimer Fee	\$ 55.00

**Total Fee(s) Due: \$719.00**

**PAYMENT OF FEE(S) DUE**

9. Please pay the fee(s) for this continued examination application as follows:

☒ Check is attached for the sum of \$719.00

☐ Charge Deposit Account No. 50-1446 the sum of \$

☒ Please charge any required additional fee(s) for § 1.17(e), § 1.16(b)-(d) and/or § 1.17(a)(1)-(4) to Deposit Account No. 50-1446.

Respectfully submitted,



Kevin C. Brown  
Reg. No. 32,402

September 22, 2003  
Date

KCB:jms

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